

An Act Relating to Patient Choice and Control at End of Life was signed into law by the Governor of Vermont on May 20, 2013. This Act permits a physician to prescribe to a patient "medication to be self-administered for the purpose of hastening the patient's death." The Act explicitly rejects euthanasia: "Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia" (at 5292). The Act explicitly has no impact on palliative sedation: "This chapter shall not limit or otherwise affect the provision, administration, or receipt of palliative sedation consistent with accepted medical standards" (at 5288).

The criteria for access and the procedural requirements under the Act (5283) are as follows:

(a) A physician shall not be subject to any civil or criminal liability or professional disciplinary action if the physician prescribes to a patient with a terminal condition medication to be self-administered for the purpose of hastening the patient's death and the physician affirms by documenting in the patient's medical record that all of the following occurred:

(1) The patient made an oral request to the physician in the physician's physical presence for medication to be self-administered for the purpose of hastening the patient's death.

(2) No fewer than 15 days after the first oral request, the patient made a second oral request to the physician in the physician's physical presence for medication to be self-administered for the purpose of hastening the patient's death.

(3) At the time of the second oral request, the physician offered the patient an opportunity to rescind the request.

(4) The patient made a written request for medication to be self-administered for the purpose of hastening the patient's death that was signed by the patient in the presence of two or more witnesses who were not interested persons, who were at least 18 years of age, and who signed and affirmed that the patient appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed.

(5) The physician determined that the patient:

(A) was suffering a terminal condition, based on the physician's physical examination of the patient and review of the patient's relevant medical records;

(B) was capable;

(C) was making an informed decision;

(D) had made a voluntary request for medication to hasten his or her death; and

(E) was a Vermont resident.

(6) The physician informed the patient in person, both verbally and in writing, of all the following:

(A) the patient's medical diagnosis;

(B) the patient's prognosis, including an acknowledgement that the

physician's prediction of the patient's life expectancy was an estimate based on

the physician's best medical judgment and was not a guarantee of the actual time remaining in the patient's life, and that the patient could live longer than the time predicted;

(C) the range of treatment options appropriate for the patient and the patient's diagnosis;

(D) if the patient was not enrolled in hospice care, all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(E) the range of possible results, including potential risks associated with taking the medication to be prescribed; and

(F) the probable result of taking the medication to be prescribed.

(7) The physician referred the patient to a second physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient was capable, was acting voluntarily, and had made an informed decision.

(8) The physician either verified that the patient did not have impaired judgment or referred the patient for an evaluation by a psychiatrist, psychologist, or clinical social worker licensed in Vermont for confirmation that the patient was capable and did not have impaired judgment.

(9) If applicable, the physician consulted with the patient's primary care physician with the patient's consent.

(10) The physician informed the patient that the patient may rescind the request at any time and in any manner and offered the patient an opportunity to rescind after the patient's second oral request.

(11) The physician ensured that all required steps were carried out in accordance with this section and confirmed, immediately prior to writing the prescription for medication, that the patient was making an informed decision.

(12) The physician wrote the prescription no fewer than 48 hours after the last to occur of the following events:

(A) the patient's written request for medication to hasten his or her death;

(B) the patient's second oral request; or

(C) the physician's offering the patient an opportunity to rescind the request.

(13) The physician either:

(A) dispensed the medication directly, provided that at the time the physician dispensed the medication, he or she was licensed to dispense medication in Vermont, had a current Drug Enforcement Administration certificate, and complied with any applicable administrative rules; or

(B) with the patient's written consent:

(i) contacted a pharmacist and informed the pharmacist of the prescription; and

(ii) delivered the written prescription personally or by mail or facsimile to the pharmacist, who dispensed the medication to the patient, the

physician, or an expressly identified agent of the patient.

(14) The physician recorded and filed the following in the patient's medical record:

- (A) the date, time, and wording of all oral requests of the patient for medication to hasten his or her death;
 - (B) all written requests by the patient for medication to hasten his or her death;
 - (C) the physician's diagnosis, prognosis, and basis for the determination that the patient was capable, was acting voluntarily, and had made an informed decision;
 - (D) the second physician's diagnosis, prognosis, and verification that the patient was capable, was acting voluntarily, and had made an informed decision;
 - (E) the physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests for medication to hasten his or her death or that the physician informed the patient of all feasible end-of-life services;
 - (F) the physician's verification that the patient either did not have impaired judgment or that the physician referred the patient for an evaluation and the person conducting the evaluation has determined that the patient did not have impaired judgment;
 - (G) a report of the outcome and determinations made during any evaluation which the patient may have received;
 - (H) the date, time, and wording of the physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and
 - (I) a note by the physician indicating that all requirements under this section were satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.
- (15) After writing the prescription, the physician promptly filed a report with the Department of Health documenting completion of all of the requirements under this section.